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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/581,899      | 04/09/2007  | Wulf Schormair       | 2903925-141000      | 1918             |

84331 7590 03/22/2010  
Baker Donelson Bearman, Caldwell & Berkowitz, PC  
555 Eleventh Street, NW, Sixth Floor  
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| EXAMINER |
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STEPHENS III, JOSE S

|          |              |
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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3728

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|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

03/22/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroomdc@bakerdonelson.com  
ltapp@bakerdonelson.com  
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|------------------------------|---|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/581,899    | <b>Applicant(s)</b><br>SCHORMAIR ET AL. |  |
|                              | <b>Examiner</b><br>JOSE S. STEPHENS III | <b>Art Unit</b><br>3728                 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This Office Action acknowledges the applicant's amendment filed 4 November 2009. Claims 17-22 are new and pending in the application; and claims 1-16 have been cancelled.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 17-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over McQuade et al. (US Patent 5,507,544) in view of Normann (US Patent 5,368,393), further in view Danielson et al. (US Patent 6,341,710).

With respect to claim 17, figure 8 of McQuade discloses a combined pack (see figure 8) which contains the following constituent parts comprising; two storage containers (see J<sub>1</sub> and J<sub>2</sub>) each having closure (C<sub>1</sub> and C<sub>2</sub>) and a handle (H<sub>1</sub> and H<sub>2</sub>),

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and a device, which fixedly connects the storage containers (see figure 8), wherein the device comprises a connector 10, wherein the connector is pushed through the handles of the storage containers. McQuade discloses the claimed invention except for a connector with a left-hand part, a wall, into which two holes are introduced, and with a cavity to the right of the wall, a left-hand and right-hand side, a closure with two arresting means, wherein the connector is pushed through the handles of the storage containers and the closure is plugged on and the connector can be fixedly connected to the closure via the arresting means, wherein the connector and the closure are form-fitting, and wherein the storage containers are fixedly connected by virtue of the closure being plugged on. Figures 1 and 6 of Normann disclose a device which fixedly connects to storage containers (plastic bags), wherein the device comprises a connector with a left-hand part (portion left of the right closure 15), a wall (tubular casing of the connector), and with a cavity (column 3, lines 52-57) to the right of the wall, a left-hand and right-hand side (see figure 1), and a closure 15 that is connected to the connector by a threaded or bayonet type junction (see column 3, lines 58-61), wherein the connector is pushed through the handles of the storage containers. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the connector of Normann to carry the storage containers of McQuade in order to provide a connector that can be converted into, or used as a carrier for a flashlight, a whistle, or a dispenser of mace or the like, as taught by Normann (column 2, lines 48-51).

The combination of McQuade in view of Normann discloses the claimed invention except that the closure is connected to the connector by a threaded or

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bayonet type junction instead of two arresting means fitting into two holes in a wall. In order to rely on equivalence as a rationale supporting an obviousness-type rejection, the equivalency must be recognized in the prior art. *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958). Danielson presents evidence that protrusions fitting into apertures were art-recognized equivalent structures for threaded or bayonet type junctions. Therefore, because these connections were art-recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute protrusions fitting into apertures for threaded or bayonet type junctions. An express suggestion to substitute one equivalent component or process for another is not necessary to render such substitution obvious. *In re Fout*, 675 F.2d 297, 213 USPQ 532 (CCPA 1982).

With respect to claim 18, McQuade further discloses the storage containers are canisters (see figure 8).

With respect to claim 19, the combination of McQuade in view of Normann, further in view of Danielson discloses the claimed invention except for the containers have different sizes. It would have been an obvious matter of design choice to modify the size of the containers, since such a modification would have involved a mere change in the size of a component. A change in size is recognized as being within the level of ordinary skill in the art. In *Gardner v. TEC Systems, Inc.*, 220 USPQ 777 (Fed. Cir. 1884), *cert. denied*, 469 U.S. 830, 225 USPQ 232 (1984).

With respect to claim 20, McQuade discloses the storage containers are made of plastic (column 1, lines 39-46).

With respect to claim 21, McQuade discloses the combined pack packages pourable materials (column 1, lines 39-46).

With respect to claim 22, the storage containers of McQuade are obviously capable of containing a crop protection agent, as intended use.

### ***Response to Arguments***

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSE S. STEPHENS III whose telephone number is 571-270-3797. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571-272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Gregory Pickett/  
Primary Examiner, Art Unit 3728

JSS